

FILED  
OCT 29 2019  
COMMISSION ON  
JUDICIAL PERFORMANCE

STATE OF CALIFORNIA

BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING  
JUDGE MORRIS D. JACOBSON,

No. 205

NOTICE OF FORMAL PROCEEDINGS

To Morris D. Jacobson, a judge of the Alameda County Superior Court from December 2005 to the present:

Preliminary investigation pursuant to Rules of the Commission on Judicial Performance, rules 109 and 111, having been made, the Commission on Judicial Performance has concluded that formal proceedings should be instituted to inquire into the charges specified against you herein.

**COUNT ONE**

On June 29, 2011, Deputy Public Defender Romany McNamara appeared before you in Department 11, where you were filling in for another judge that day. Ms. McNamara, who was new to the felony trial department, had a number of matters set on the morning calendar. One of the cases you called that morning involving Ms. McNamara was *People v. Eric Hale*, No. 166264. During the hearing, you berated Ms. McNamara when she asked for a moment before proceeding. You engaged in the following exchange with Ms. McNamara:

THE COURT: Is this Mr. Hale? Are you Mr. Hale? [¶] Good morning, sir. [¶] 166264. [¶] Ms. McNamara is here with Mr. Hale; Mr. McCannon for the People.

MS. MC NAMARA: Just a moment, please.

THE COURT: Is formal arraignment waived?

MS. MC NAMARA: So waived.

THE COURT: Do you have the Information only, or do you have the preliminary hearing as well?

MS. MC NAMARA: I have the Information only.

THE COURT: Is the plea not guilty to all charges?

MS. MC NAMARA: I need just a moment, please.

THE COURT: Ms. McNamara. I am proceeding with the arraignment. I'm not giving you a moment. So if you want to put this over for a different day so you can visit with your client out of court, that's fine. If you anticipate you are going to be pleading guilty to a robbery and a burglary at this point, please let me know. I am assuming you are going to be pleading not guilty. [¶] I need to move this along; I have a lot of cases left on the calendar. I'm not giving you time right now.

THE COURT: Plea is not guilty on all charges.

MS. MC NAMARA: Plea is not guilty on all charges.

THE COURT: All clauses and priors are denied?

MS. MC NAMARA: Yes.

THE COURT: Okay. Would you guys take a moment to figure out if you want to waive time or if you don't. Either way is okay.

MS. MC NAMARA: Thank you, Judge.

(R.T. 2:4–3:5.)

After the calendar concluded, as Ms. McNamara was preparing to leave the courtroom, you called out to her and asked her to approach the bench. Ms. McNamara approached the bench and rested her left hand on the railing of the bench. You leaned toward her and said, “I probably shouldn’t have yelled at you back there. But I need to move my calendar along.” You then said, “But don’t do it again,” and slapped the back of her hand. The hand slap caused the outline of your hand to be visible on Ms. McNamara’s hand. Ms. McNamara looked at you and then turned and left the courtroom.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, 3B(4), and 3B(5).

### **COUNT TWO**

In early 2016, while you were the presiding judge, Civil Division Director Arlene Junior came to see you in chambers. You engaged Ms. Junior in a discussion about Tarrant County, Texas, where she had previously worked. You asked Ms. Junior if she knew of the Tarrant County judge who had been charged with coercing sex from female prisoners and probationers in exchange for leniency in court. You told Ms. Junior that prostitutes had been transported from the jail to the courthouse to give judges “head” under their desks in chambers.

Your conduct violated the Code of Judicial Ethics, canons 1, 2, 2A, and 3B(4).


YOU ARE HEREBY GIVEN NOTICE, pursuant to Rules of the Commission on Judicial Performance, rule 118, that formal proceedings have been instituted and shall proceed in accordance with Rules of the Commission on Judicial Performance, rules 101-138.

Pursuant to Rules of the Commission on Judicial Performance, rules 104(c) and 119, you must file a written answer to the charges against you within twenty (20) days after service of this notice upon you. The answer shall be filed with the Commission on Judicial Performance, 455 Golden Gate Avenue, Suite 14400, San Francisco, California 94102-3660. The answer shall be verified and shall conform in style to the California Rules of Court, rule 8.204(b). The Notice of Formal Proceedings and answer shall constitute the pleadings. No further pleadings shall be filed and no motion or demurrer shall be filed against any of the pleadings.

This Notice of Formal Proceedings may be amended pursuant to Rules of the Commission on Judicial Performance, rule 128(a).

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

Dated: October 4, 2019

  
Nanci E. Nishimura, Esq.  
Chairperson

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OCT 29 2019  
COMMISSION ON  
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STATE OF CALIFORNIA  
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE

INQUIRY CONCERNING  
JUDGE MORRIS D. JACOBSON,  
  
No. 205

ACKNOWLEDGMENT OF  
SERVICE OF NOTICE OF  
FORMAL PROCEEDINGS

I, Edith R. Matthai, on behalf of my client, Judge Morris D. Jacobson, hereby waive personal service of the Notice of Formal Proceedings in Inquiry No. 205 and agree to accept service by mail. I acknowledge receipt of a copy of the Notice of Formal Proceedings by mail and, therefore, that Judge Morris D. Jacobson has been properly served pursuant to Rules of the Commission on Judicial Performance, rule 118(c).

Dated: 10/25/19

  
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Edith R. Matthai  
Attorney for Judge Morris D. Jacobson  
Respondent